

3789.000

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ZANDREA ASKEW,

Plaintiff,

v.

**LASALLE COUNTY; THOMAS
TEMPLETON**, the LaSalle County Sheriff;
GREGORY HIGGINS, a LaSalle County
Sheriff's Officer; **SHELLEY KESSLER**, a
LaSalle County Sheriff's Officer; **DREW
LENGFELDER**, a LaSalle County Sheriff's
Officer; **DEPUTY PITROWSKI**, a LaSalle
County Sheriff's Officer; **DEPUTY
VARGAS**, a LaSalle County Sheriff's
Officer; **RONALD MARCONI**, a LaSalle
County Sheriff's Officer; **DEPUTY
COGDAL**, a LaSalle County Sheriff's
Officer; **UNKNOWN LASALLE COUNTY
SHERIFF'S OFFICERS**,

Defendants.

No.:

Honorable
Courtroom:

COMPLAINT

Plaintiff, Zandrea Askew, by and through her attorneys, Ekl, Williams & Provenzale, LLC complain of the Defendants, LaSalle County, Thomas Templeton, Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers as follows:

Introduction

This action is brought seeking redress for violations of the Plaintiff's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States of America and for violations of Illinois common law. Specifically, Plaintiff is seeking damages which resulted when she was falsely arrested by LaSalle County Officers without probable cause and detained at the LaSalle County jail where officers viciously and unlawfully assaulted her by slamming her to the ground and forcibly removed her clothes and undergarments. The force used against Plaintiff was not only excessive but there was no legal or penological justification for aggressively stripping Plaintiff of her clothing and detaining her in the jail without clothing. LaSalle County Sheriff's Officers intentionally and gratuitously humiliated, degraded and dehumanized Plaintiff while they unlawfully detained her in the jail. For over 40 years, this abusive and unconstitutional treatment has been, and continues to be, a regular and common practice by the LaSalle County Sheriff's Office as a means of illegally punishing arrestees.

Jurisdiction and Venue

1. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. §1331 and §1343(a)(3), as the federal claims are brought under 42 U.S.C. §1983. Venue is proper pursuant to 28 U.S.C. §1391(b), as all or some of the parties reside in the Northern District of Illinois and the events giving rise to the claims occurred in this district. The Court has supplemental jurisdiction over the

Plaintiff's state law claims pursuant to 28 U.S.C. §1367(a), as the claims arise out of the same nucleus of operative facts.

The Parties

2. The Plaintiff, Zandrea Askew, is 28 year old African American female. She is a Marine Corps veteran and was honorably discharged in 2015. She is citizen of the United States of America and at all relevant times enjoyed the rights enumerated under the Constitution of the United States.

3. Defendant LaSalle County is a body politic organized under the laws of the State of Illinois.

4. Defendant Thomas Templeton is the elected LaSalle County Sheriff and is being sued in his official capacity and as such is responsible for the policies and practices, both express and *de facto*, of the LaSalle County Sheriff's Office.

5. Defendants Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers (hereinafter collectively "Officers") at all relevant times were employed as officers by LaSalle County and/or the LaSalle County Sheriff's Office, acting under the color of law, and within the scope of said employment. These Officers are being sued in their individual capacity.

Facts Common to All Counts of the Complaint

6. On the early morning of January 20, 2017, Plaintiff was parked in her vehicle on the side of a public street in LaSalle County, Illinois. Plaintiff had not committed any traffic violation or criminal offense and had not been involved in a traffic accident.

7. While Plaintiff was sitting in her vehicle, Defendants Higgins and Marconi approached Plaintiff to question her. Upon questioning Plaintiff, Defendant Higgins and Marconi learned that Plaintiff had a valid driver's license, and that there were no outstanding warrants for her arrest. Furthermore, Plaintiff exhibited no signs of being under the influence of alcohol or any drug.

8. Despite that, Defendants Higgins and Marconi ordered Plaintiff to exit her vehicle and perform field sobriety tests. Plaintiff passed all of the field sobriety tests and demonstrated no signs of being under the influence of either alcohol or drugs.

9. Despite passing the field sobriety tests, Defendants Higgins and Marconi placed Plaintiff under arrest for the misdemeanor offense of driving under the influence of drugs. At the time of her arrest, Defendants Higgins and Marconi had no probable cause to believe that Plaintiff had committed any criminal offense.

10. Incident to and following her arrest, Plaintiff was thoroughly searched by Defendants Higgins and Marconi. Plaintiff cooperated with the Officers, complied with all commands given by the Officers, and did not act aggressively towards the Officers or others.

11. Defendants Higgins and Marconi handcuffed Plaintiff and placed her in a squad car. Defendant Higgins then transported Plaintiff to a hospital. During this time, Plaintiff continued to cooperate with Defendant Higgins, complied with all commands given by Defendant Higgins, and did not act aggressively towards Defendant Higgins or others.

12. At the hospital, Defendant Higgins did not seek any medical attention for Plaintiff. To the contrary, the sole purpose of taking Plaintiff to a hospital was to obtain a blood sample from Plaintiff. There was no legal justification for obtaining Plaintiff's blood under Illinois law or the Fourth Amendment to the United States Constitution. At the hospital, Plaintiff continued to cooperate with Defendant Higgins, complied with all commands given by Defendant Higgins, and did not act aggressively towards Defendant Higgins or others.

13. Defendant Higgins then transported Plaintiff to the LaSalle County Jail (hereinafter "Jail"). During this time, Plaintiff continued to cooperate with Defendant Higgins, complied with all commands given by Defendant Higgins, and did not act aggressively towards Defendant Higgins or others.

14. Upon arrival at the Jail, Plaintiff was not given the opportunity to post bond, as mandated by Illinois law, which would have secured her release from custody. To the contrary, upon arrival at the Jail, Plaintiff was confronted with at least five additional officers, including, Defendants Lengfelder, Kessler, Pitrowski, Vargas, and Cogdal.

15. Upon arrival at the Jail, Plaintiff did not act aggressively or engage in any conduct that would cause any of the Officers to fear for their safety or the safety of others.

16. Despite that, upon arrival at the Jail, Defendants Kessler, Pitrowski, Vargas, and other as-yet unknown officers, in the presence of Defendant Higgins, Lengfelder and Cogdal and other as-yet unknown offices, forcibly dragged Plaintiff into a cell at the Jail.

17. While in the cell, Defendants Kessler, Pitrowski, and Vargas forcibly threw Plaintiff to the ground and unreasonably and deliberately attacked and restrained Plaintiff causing injury to Plaintiff's body. This was done in the presence and/or with the knowledge of other LaSalle County officers, including, upon information and belief, Defendants Higgins, Lengfelder, Cogdal, and other as-yet unknown officers.

18. While physically restraining Plaintiff, Defendants Kessler, Pitrowski, and Vargas forcibly and maliciously stripped all of Plaintiff's clothes and undergarments from her body. During this attack, Defendants Kessler, Pitrowski, and Vargas also violently pulled Plaintiff's hair and caused further pain and injury to Plaintiff's body. This attack and striping occurred in the presence and/or with the knowledge of other LaSalle County officers, including, upon information and belief, Defendants Higgins, Lengfelder, Cogdal, and other as-yet unknown officers. None of the Officers attempted to stop the vicious attack on Plaintiff despite the fact

that it occurred over several minutes and Plaintiff was crying out in extreme distress, pain and fear during the attack.

19. The cell where Plaintiff was attacked and stripped was equipped with video surveillance equipment that recorded the incident. The Officers, including males, viewed or had the opportunity to view the attack and stripping of Plaintiff by Defendants Kessler, Pitrowski, and Vargas.

20. Throughout her detention at the Jail, Plaintiff was not acting aggressively or engaging in any conduct that would cause an officer to be in reasonable apprehension of receiving bodily harm, or that justified the use of force against her.

21. There was no legitimate or necessary law enforcement, safety, or penological objective to forcibly stripping Plaintiff of her clothing. The only objective of the Officers was to punish, harass, humiliate, degrade, and inflict physical and psychological pain upon Plaintiff.

22. The Officers' conduct in stripping Plaintiff of her clothing was intentionally demeaning, dehumanizing, undignified, humiliating, terrifying, embarrassing, and degrading.

23. Illinois law specifically prohibits any peace officer from stripping a person arrested for a misdemeanor offense unless there is a reasonable belief that the individual is concealing a weapon or controlled substance. 725 ILCS 5/103-1(c).

24. The Officers had no reasonable belief that Plaintiff, who had previously been searched prior to arriving at the Jail, was concealing a weapon or controlled substance.

25. Defendant Higgins filed charges against Plaintiff for the misdemeanor offenses of driving under the influence of drugs and resisting arrest. Defendant Higgins knew that there was no probable cause to support either of those charges and Plaintiff did not engage in any conduct that would cause a reasonable officer to believe that Plaintiff committed the offense of driving under the influence of drugs or resisting arrest.

26. In support of the resisting arrest charges, Defendant Higgins falsely claimed that Plaintiff struggled with himself and other officers despite knowing that allegation to be false.

27. In support of the driving under the influence charge, Defendant Higgins falsely claimed that Plaintiff was operating a vehicle under the influence of drugs.

28. At approximately 12:00 p.m on January 20, 2017, almost twelve (12) hours after she was falsely arrested, Plaintiff was released from custody by LaSalle County officers.

29. The prosecution of Plaintiff for the fabricated charges of driving under the influence and resisting arrest continued for eighteen (18) months, until July 13, 2018.

30. On July 13, 2018, the LaSalle County State's Attorney dismissed the charges of driving under the influence and resisting arrest against Plaintiff. In dismissing the charges, the LaSalle County State's Attorney determined, and made a written finding, that there was no probable cause for Plaintiff's arrest.

31. During the course of Plaintiff's 18 month prosecution, she was forced to hire and pay an attorney to defend her and appeared in court on numerous occasions to answer the false charges against her.

32. Upon information and belief, as-yet unknown LaSalle County Sheriff's officers and/or employees, attempted to delete and/or destroy the video recording of the assault and stripping of Plaintiff. However, despite these efforts, a restored version of the video was recovered and disclosed to Plaintiff by the LaSalle County State's Attorney's Office.

COUNT I
42 U.S.C. §1983
FOURTH AMENDMENT VIOLATION
UNLAWFUL DETENTION AND FALSE ARREST (CONSPIRACY)

33. Plaintiff realleges and incorporates ¶¶1 through 32 above as ¶33 of this Count I.

34. At all relevant times, Plaintiff possessed a right under the Fourth Amendment to the Constitution of the United States to be free from unreasonable searches and seizures and to be secure in her personal effects and property.

35. At all relevant times, Defendants Higgins and Marconi, as well as other as-yet unknown co-conspirators, accomplished an unlawful result through

individual and/or concerted action, in that they agreed, through explicit or implicit means, to effect the unlawful detention and arrest of the Plaintiff, without lawful authority in the form of reasonable articulable suspicion, probable cause, a judicial warrant or writ, or other factual or legal justification.

36. In furtherance of said agreement, Defendants Higgins and Marconi unlawfully detained and arrested Plaintiff, manufactured and fabricated evidence against her, failed to intervene in observed constitutional violations, and withheld the existence and disclosure of exculpatory evidence.

37. At all times relevant thereto, Defendants Higgins and Marconi were acting under color of law and within the scope of each's employment, and their individual and/or concerted conduct as described above was unreasonable and without lawful justification.

38. Defendant Higgins and Marconi's individual and/or concerted action as described above violated Plaintiff's right to be free from unreasonable searches and seizures as provided in the Fourth Amendment to the United States Constitution and has caused Plaintiff to suffer, and will in the future continue to suffer, severe damages including, mental anguish, emotional distress, humiliation, degradation, loss of income, loss of reputation, and legal expenses.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Gregory Higgins and Ronald Marconi jointly and severally, for compensatory and punitive damages in a sum in excess of \$1,000,000 and for her attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT II
42 U.S.C. §1983
FOURTH AMENDMENT VIOLATION
UNLAWFUL DETENTION AT THE LASALLE COUNTY JAIL (CONSPIRACY)

39. Plaintiff realleges and incorporates ¶¶1 through 32 above as ¶39 of this Count II.

40. At all relevant times, Plaintiff possessed a right under the Fourth Amendment to the Constitution of the United States to be free from unreasonable searches and seizures and to be secure in her personal effects and property.

41. At all relevant times, Defendants, Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and as-yet unidentified LaSalle County Sheriff's Officers, accomplished an unlawful result through individual and/or concerted action, in that they agreed, through explicit or implicit means, to violate Plaintiff's right to be free from unreasonable searches and seizures as provided in the Fourth Amendment to the United States Constitution.

42. In furtherance of said agreement, the Officers unlawfully and unreasonably detained Plaintiff at the LaSalle County Jail without lawful authority in the form of probable cause, a judicial warrant or writ, or other factual or legal justification.

43. In furtherance of said agreement, the Officers unlawfully and unreasonably detained Plaintiff at the LaSalle County Jail by refusing to allow Plaintiff to post bond, as mandated by Illinois law, and release her from custody.

44. The Officers individual and/or concerted action, as described above, violated Plaintiff's right to be free from unreasonable searches and seizures as provided in the Fourth Amendment to the United States Constitution and has caused Plaintiff to suffer, and will in the future suffer, severe damages, including physical injury, physical and emotional pain and suffering, mental anguish, emotional distress, loss of income, and humiliation.

45. At all times relevant thereto, the Officers were acting under color of law and within the scope of each's employment, and their individual and/or concerted conduct as described above was unreasonable and without lawful justification.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers, jointly and severally, for compensatory and punitive damages in a sum in excess of \$1,000,000 and for her attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT III
42 U.S.C. §1983
FOURTH AMENDMENT VIOLATION
EXCESSIVE FORCE AND ILLEGAL STRIP SEARCH AT THE LASALLE COUNTY JAIL
(CONSPIRACY)

46. Plaintiff realleges and incorporates ¶¶1 through 32 above as ¶46 of this Count III.

47. At all relevant times, Plaintiff possessed a right under the Fourth Amendment to the Constitution of the United States to be free from unreasonable searches and seizures, including freedom from the use of unreasonable and/or excessive force against her.

48. At all relevant times, Defendants Shelley Kessler, Deputy Pitrowski, and Deputy Vargas, as well as yet unknown co-conspirators, accomplished an unlawful result through individual and/or concerted action in that they agreed, through explicit or implicit means, to effect the unlawful and unreasonable use of force against Plaintiff and an unreasonable search of Plaintiff without lawful justification.

49. In furtherance of said agreement, Defendants Shelley Kessler, Deputy Pitrowski, and Deputy Vargas unlawfully physically assaulted and/or brutalized the Plaintiff without lawful justification by throwing Plaintiff to the ground, violently attacking and restraining her, and forcibly stripping her of her clothing .

50. As described above, the conduct of Defendants Shelley Kessler, Deputy Pitrowski, and Deputy Vargas was under the color of law and within the scope of their employment and was not objectively reasonable and constituted an unreasonable search and excessive use of force in violation of the Fourth Amendment of the Constitution of the United States.

51. As the proximate result of the individual and/or concerted action, as described above, by Defendants Shelley Kessler, Deputy Pitrowski, and Deputy Vargas, which violated the rights of Plaintiff to be free from excessive force and

unreasonable searches and seizures, Plaintiff has suffered, and continues to suffer, severe damages including physical injury, physical and emotional pain and suffering, mental anguish, emotional distress, loss of income, and humiliation.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Shelley Kessler, Deputy Pitrowski, Deputy Vargas, and Unknown LaSalle County Sheriff's Officers, jointly and severally, for compensatory and punitive damages in a sum in excess of \$1,000,000 and for her attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT IV
42 U.S.C. §1983

FOURTEENTH AMENDMENT VIOLATION—DUE PROCESS CLAUSE (CONSPIRACY)

52. Plaintiff realleges and incorporates ¶¶1 through 32 above as ¶52 of this Count IV.

53. At all relevant times, Plaintiff possessed a right under the Fourteenth Amendment to the Constitution of the United States to due process of law

54. At all relevant times, Defendants Shelley Kessler, Deputy Pitrowski, and Deputy Vargas, and as-yet unknown co-conspirators, accomplished an unlawful result through individual and/or concerted action, in that they agreed, through explicit or implicit means, to violate Plaintiff's right to due process by deliberately physically injuring Plaintiff and inflicting psychological pain on Plaintiff.

55. In furtherance of said agreement, Defendants Shelley Kessler, Deputy Pitrowski, and Deputy Vargas, and as-yet unknown co-conspirators unlawfully and

deliberately threw Plaintiff to the ground, violently attacked and restrained her, and forcibly stripped her clothing from her body.

56. The Defendants' individual and/or concerted conduct, as described above, violated Plaintiff's right to due process as provided in the Fourteenth Amendment to the United States Constitution and has caused Plaintiff to suffer, and will in the future continue to suffer, severe damages, including physical injury, physical and emotional pain and suffering, mental anguish, and emotional distress.

57. At all relevant times, Defendants were acting under color of law, and their individual and/or concerted conduct as described above was intentional and done with a conscious, callous and deliberate indifference to Plaintiff's constitutional right to due process and in a manner that shocks the conscience.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Shelley Kessler, Deputy Pitrowski, Deputy Vargas, and Unknown LaSalle County Sheriff's Officers, jointly and severally, for compensatory and punitive damages in a sum in excess of \$1,000,000 and for her attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT V
42 U.S.C. §1983

FOURTH AMENDMENT VIOLATION—FAILURE TO INTERVENE

58. Plaintiff realleges and incorporates ¶¶1 through 57 above as ¶58 of this Count V.

59. At all relevant times, Plaintiff possessed a right under the Fourth Amendment to the Constitution of the United States to be free from unreasonable

searches and seizures, including freedom from the use of unreasonable and/or excessive force against her.

60. During the events described above, each of the Officers, Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers, stood by and failed to intervene to prevent the unconstitutional physical violence and search which Plaintiff was being subjected to at the hands of one or more of the other Officers.

61. As a proximate result of the failure of the Officers, Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers, to intervene on behalf of Plaintiff to prevent the unconstitutional conduct against her, despite the clear need and reasonable opportunity to do so, Plaintiff has suffered and will continue to suffer severe damages, including physical injury, physical and emotional pain and suffering, mental anguish, emotional distress, and humiliation.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers jointly and severally, for compensatory and punitive damages in a sum in excess of \$1,000,000 and for her attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT VI
42 U.S.C. §1983

FOURTEENTH AMENDMENT VIOLATION—FAILURE TO INTERVENE

62. Plaintiff realleges and incorporates ¶¶1 through 57 above as ¶62 of this Count VI.

63. At all relevant times, Plaintiff possessed a right under the Fourteenth Amendment to the Constitution of the United States to due process of law.

64. During the events described above, each of the Officers, Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers, stood by and failed to intervene to prevent the due process violations which Plaintiff was being subjected to at the hands of one or more of the other Officers.

65. As a proximate result of the failure of the Officers, Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers, to intervene on behalf of Plaintiff to prevent the unconstitutional conduct against her, despite the clear need and reasonable opportunity to do so, Plaintiff has suffered and will continue to suffer severe damages, including physical injury, physical and emotional pain and suffering, mental anguish, emotional distress, and humiliation.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and Unknown LaSalle County Sheriff's Officers jointly and severally, for compensatory and punitive damages in a

sum in excess of \$1,000,000 and for her attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT VII
42 U.S.C. §1983

MONELL CLAIM—LASALLE COUNTY AND LASALLE COUNTY SHERIFF

66. Plaintiff realleges and incorporates ¶¶1 through 65 above as ¶66 of this Count VII.

67. The actions of the Officers, as alleged above, were done pursuant to one or more independent or interrelated express or *de facto* policies, practices and/or customs of the LaSalle County Sheriff's Office.

68. At all times material to this Complaint, the LaSalle County Sheriff's Office had independent or interrelated *de facto* policies, practices, and customs, that were widespread and persistent, which included, *inter alia*, stripping misdemeanor arrestees of their clothing, forcibly removing the clothing of arrestees for the purpose of punishing and humiliating arrestees, detaining arrestees in padded cells without clothing to punish and humiliate arrestees, and refusing to allowing misdemeanor arrestees to post bond and secure their release from custody.

69. Pursuant to section 103-4 of the Illinois Code of Criminal Procedure, no person arrested for a misdemeanor offense, except in cases involving weapons or a controlled substance, shall be stripped unless there is a reasonable belief that the individual is concealing a weapon or controlled substance. 725 ILCS 5/103-4. Even in felony arrests or when there is a reasonable belief that an individual is

concealing a weapon or controlled substance, Illinois law imposes the following requirements on officers prior to stripping a detainee, including, *inter alia*:

- (a) The stripping shall be performed by persons of the same sex as the arrested person and on premises where the stripping cannot be observed by persons not physically conducting the search. 725 ILCS 5/103-1(e)
- (b) Written permission of the police commander or an agent thereof designated for the purpose of authorizing a strip search shall be obtained. 725 ILCS 5/103-1(f)(1)

70. The LaSalle County Sheriff's Office failed to train, supervise, discipline, transfer, monitor, counsel and/or otherwise control officers regarding, *inter alia*, (a) Illinois law regarding the restrictions on stripping detainees and the permissible method of conducting strip searches, and (b) the unconstitutionality of the use of excessive force and stripping the clothing from an individual or leaving an individual unclothed during his or her detention at the Jail

71. The LaSalle County Sheriff's Office has an express and/or *defacto* policy of officers stripping the clothing from arrestees being temporarily held on misdemeanor offenses despite the officers not having a reasonable belief that the arrestees were concealing a weapon or contraband, in direct violation of the Fourth Amendment, the Fourteenth Amendment, and Illinois law.

72. The LaSalle County Sheriff's Office also has an express and/or *defacto* policy of forcibly stripping the clothing from arrestees being temporarily held on misdemeanor offenses and placing the arrestees in a padded cell without clothing in order to punish the arrestee because an officer has concluded that the arrestee is

being uncooperative in direct violation of the Fourth Amendment, the Fourteenth Amendment, and Illinois law.

73. Prior to the unconstitutional acts committed upon Plaintiff, as described above, several other individuals at the Jail, arrested without a warrant on non-drug and non-weapon related misdemeanor offenses, were forcibly stripped of their clothing by officers without reasonable suspicion that the arrestees were concealing drugs or a weapon or other legal justification. Likewise, those arrestees were also left in a cell without clothing for varying lengths of time, up to several hours. See *e.g.* Holmes v. LaSalle County, et. al, 13-cv-6997; Welter, et. al v. LaSalle County, et al., 13-cv-8003 (action brought by four plaintiffs on behalf of class of others similarly situated).

74. Upon information and belief, the officers involved in illegally stripping arrestees of their clothing at the Jail, as described in paragraph 73, were not fired, disciplined, or sent to remedial training by the LaSalle County Sheriff's Office as a result of their conduct, allowing the express or *de facto* policy of illegally stripping arrestees in the Jail to exist and thrive at the Jail.

75. Furthermore, on, prior to, and since January 20, 2017, Thomas Templeton, the LaSalle County Sheriff and the final policymaker for the LaSalle County Sheriff's Office, has allowed his officers to continue to engage in the unconstitutional acts as described above despite having knowledge of such misconduct and having a reasonable opportunity to intervene and prevent the continued constitutional violations.

76. On January 8, 2014, Thomas Templeton was deposed in the case of Holmes v. LaSalle County, et. al, 13-cv-6997, at which time he admitted, under oath, that the LaSalle County Sheriff's Office has a policy and procedure to place arrestees, that are determined to be "uncooperative", into padded cells and remove their clothing. According to Sheriff Templeton, that policy had been in place for 40 years.

77. The unconstitutional policy of forcibly removing the clothing of arrestees as a means of punishing those arrestees has continued to be ratified by Thomas Templeton and has not been remedied.

78. These express and/or *defacto* policies, practices and customs, as set forth above, both individually and together, were maintained and implemented unreasonably, with deliberate indifference to an obvious need, and in a manner that shocks the conscience, and were, separately and together, a direct and proximate cause of the unconstitutional acts committed by Defendants Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and other not-yet identified LaSalle County Sheriff officers, and the injuries suffered by Plaintiffs.

WHEREFORE, Plaintiff, Zandrea Askew, seek a preliminary and permanent injunction to enjoin Thomas Templeton and LaSalle County from permitting officers to strip arrestees in violation of Illinois law and the United States Constitution and to mandate Thomas Templeton and LaSalle County to train its officers regarding the restrictions on the use of force and the use of and method of

conducting strip searches under Illinois law and the United States Constitution. Plaintiffs also demand judgment against Thomas Templeton and LaSalle County for compensatory damages in a sum in excess of \$1,000,000 and for her attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT VIII
42 U.S.C. §1983
FEDERAL MALICIOUS PROSECUTION—CONSPIRACY

79. Plaintiff realleges and incorporates ¶¶1 through 32 above as ¶79 of this Count VIII.

80. At all relevant times, Defendants Higgins and Marconi lacked probable cause to detain, arrest and/or charge Plaintiff for a violation of any law, statute or ordinance of any jurisdiction.

81. At all relevant times, Defendants Higgins and Marconi were acting under the color of law and within the scope of their employment with Defendant LaSalle County and/or the LaSalle County Sheriff's Office, and were duly appointed agents and employees.

82. At all relevant times, Defendants Higgins and Marconi, as well as yet unknown co-conspirators, accomplished an unlawful result through individual and/or concerted action, in that they agreed, through explicit or implicit means, to falsely and maliciously charge Plaintiff with a violation of the Illinois Criminal Code without probable cause to do so in violation of her rights secured by the Fourth and Fourteenth Amendments.

83. As set forth above, and in furtherance of said agreement, Defendants Higgins and Marconi falsified police reports, filed false criminal charges initiating judicial proceedings, withheld, concealed and/or destroyed exculpatory evidence and fabricated incriminating evidence.

84. As set forth above, the criminal charges filed through the individual and/or concerted actions of Defendants Higgins and Marconi were filed with malice and without probable cause.

85. Defendants Higgins and Marconi caused Plaintiff to be subjected improperly to judicial proceedings until the charges were disposed of in favor of the Plaintiff in a manner indicative of the actual innocence of Plaintiff.

86. As the proximate result of the false and malicious prosecution as set forth above, the Plaintiff has suffered and will continue in the future to suffer injuries of a personal and pecuniary nature, including, mental anguish, emotional distress, loss of income, loss of reputation, humiliation, and legal expenses.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Gregory Higgins and Ronald Marconi jointly and severally, for compensatory and punitive damages in a sum in excess of \$1,000,000 and for her attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT IX
ILLINOIS STATE COMMON LAW
MALICIOUS PROSECUTION—CONSPIRACY

87. Plaintiff realleges and incorporates ¶¶1 through 32 above as ¶87 of this Count IX.

88. At all relevant times, Defendants Higgins and Marconi lacked probable cause to detain, arrest and/or charge Plaintiff for a violation of any law, statute or ordinance of any jurisdiction.

89. At all relevant times, Defendants Higgins and Marconi were acting within the scope of their employment with Defendant LaSalle County and/or the LaSalle County Sheriff's Office, and were duly appointed agents and employees.

90. At all relevant times, Defendants Higgins and Marconi, as well as yet unknown co-conspirators, accomplished an unlawful result through individual and/or concerted action, in that they agreed, through explicit or implicit means, to falsely and maliciously charge Plaintiff with a violation of the Illinois Criminal Code without probable cause to do so.

91. As set forth above, and in furtherance of said agreement, Defendants Higgins and Marconi falsified police reports, filed false criminal charges initiating judicial proceedings, withheld, concealed and/or destroyed exculpatory evidence and fabricated incriminating evidence.

92. As set forth above, the criminal charges filed through the individual and/or concerted actions of Defendants Higgins and Marconi were filed with malice and

disposed of in favor of the Plaintiff in a manner indicative of the actual innocence of Plaintiff.

93. As the proximate result of the false and malicious prosecution as set forth above, the Plaintiff has suffered and will continue in the future to suffer injuries of a personal and pecuniary nature, including loss of reputation, mental anguish, emotional distress, loss of income, and legal expenses.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Gregory Higgins, Ronald Marconi, Thomas Templeton, and LaSalle County, jointly and severally, for compensatory and punitive damages in a sum in excess of \$1,000,000.

COUNT X
RESPONDENT SUPERIOR

94. Plaintiff realleges and incorporates ¶¶1 through 32 and ¶¶87 to 93 above as ¶94 of this Count X.

95. At all times relevant hereto, Defendants Higgins and Marconi were acting as the actual and/or apparent agent and/or employee of Defendants LaSalle County and/or Thomas Templeton, in connection with all individual and/or concerted acts and/or omissions ascribed to each herein, and therefore each was acting within the scope of his employment with Defendants LaSalle County and/or Thomas Templeton.

96. As a result of the facts set forth in this Complaint, Defendants LaSalle County and Thomas Templeton are liable for the acts and/or omissions of its agents, Defendants Higgins and Marconi, sought in Count IX above.

WHEREFORE, the Plaintiff, Zandrea Askew, demands judgment against Defendants Thomas Templeton and LaSalle County, jointly and severally, in a sum in excess of \$1,000,000.

COUNT XI
INDEMNIFICATION

97. Plaintiff realleges and incorporates ¶¶1 through 93 above as ¶97 of this Count XI.

98. Pursuant to Section 9-102 of the Local Government and Governmental Employees Tort Immunity Act (“the Act”), a local public entity is directed to pay any tort judgment or settlement for compensatory damages for which it or an employee acting within the scope of his employment is liable. 745 ILCS 10/9-102.

99. Thomas Templeton, in his official capacity as the Sheriff of LaSalle County, and LaSalle County are local public entities as defined in the Act. 745 ILCS 10/1-206.

100. Defendants Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and not-yet identified LaSalle County Sheriff Officers, at all relevant times were “employees” of the LaSalle County Sheriff and/or LaSalle County as defined by the Act. 745 ILCS 10/1-202.

101. At all relevant times, Defendants Gregory Higgins, Drew Lengfelder, Ronald Marconi, Shelley Kessler, Deputy Pitrowski, Deputy Vargas, Deputy Cogdal, and not-yet identified LaSalle County Sheriff Officers acted within the scope of their employment with LaSalle County and/or the LaSalle County Sheriff’s Office.

102. Pursuant to the Act, LaSalle County is also required to pay any judgment or settlement entered against Thomas Templeton, in his official capacity as the LaSalle County Sheriff.

WHEREFORE, Plaintiff Zandrea Askew demands judgment against Defendants Thomas Templeton and LaSalle County, as indemnors, in the amount awarded to Plaintiff against any and all individual Defendants, as damages, attorney's fees, costs and interest, and/or for any settlement entered into between Plaintiffs and the Defendants.

PLAINTIFF DEMANDS A JURY OF TWELVE

Respectfully submitted by:

By: s/ Terry A. Ekl

Terry A. Ekl [#0727105]

Patrick L. Provenzale [#6225879]

Tracy Stanker [#6274868]

Ekl, Williams & Provenzale LLC

Two Arboretum Lakes

901 Warrenville Road, Suite 175

Lisle, IL 60532

(630) 654-0045

(630) 654-8318 *Facsimile*

tekl@eklwilliams.com

pprozale@eklwilliams.com

tstanker@eklwilliams.com

CIVIL COVER SHEET

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(See instructions on next page of this form.)*

I. (a) PLAINTIFFS

Zandrea Askew

(b) County of Residence of First Listed Plaintiff Winnebago*(Except in U.S. plaintiff cases)***(c)** Attorneys *(firm name, address, and telephone number)*Ekl, Williams & Provenzale LLC
901 Warrenville Road, #175, Lisle, IL 60532; 630-654-0045**DEFENDANTS**

LaSalle County, et al.

County of Residence of First Listed Defendant LaSalle*(In U.S. plaintiff cases only)**Note: In land condemnation cases, use the location of the tract of land involved.*Attorneys *(if known)***II. BASIS OF JURISDICTION** *(Check one box, only.)*

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question *(U.S. Government not a party)*
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity *(Indicate citizenship of parties in Item III.)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(For Diversity Cases Only.)**(Check one box, only for plaintiff and one box for defendant.)*

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Check one box, only.)*

CONTRACT	TORTS		PRISONER PETITIONS	LABOR	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 530 General <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Habeas Corpus: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAXES <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN *(Check one box, only.)*

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation ☐ 8 Multidistrict Litigation Direct File

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.) Federal & state claims brought under 42 U.S.C. 1983 and supplemental state law claims

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT:

☐ Check if this is a class action Under rule 23, Demand \$ 1,000,000
F.R.C.V.P.

Check Yes only if demanded in complaint.
Jury Demand: ☒ Yes ☐ No

IX. RELATED CASE(S) IF ANY *(See instructions)*

Judge

Case Number

X. Is this a previously dismissed or remanded case? ☐ Yes ☒ No If yes, Case # Name of Judge

Date
01/15/2019

Signature of attorney of record

/s/ Terry A. Ekl

Authority for Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the six boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Previous Bankruptcy Matters For nature of suit 422 and 423 enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this court. Use a separate attachment if necessary.

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

IX. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

X. Refiling Information. Place an "X" in the Yes box if the case is being refiled or if it is a remanded case, and indicate the case number and name of judge. If this case is not being refiled or has not been remanded, place an "X" in the No box.

Date and Attorney Signature. Date and sign the civil cover sheet.